

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:	§	
	§	BANKRUPTCY NO. 22-50591CAG
CHRIS PETTIT & ASSOCIATES, P.C.	§	
	§	CHAPTER 11 PROCEEDING
DEBTOR	§	

**MOTION OF SHARON BRIMHALL, EXECUTRIX OF THE ESTATE OF HARRY
SIMS TO APPOINT CHAPTER 11 TRUSTEE**

**MOVANT HAS REQUESTED EXPEDITED CONSIDERATION OF THIS MOTION AND
HAS REQUESTED THAT A HEARING BE HELD ON THIS MOTION AT THE
COURT’S EARLIEST CONVENIENCE. IF THE COURT IN FACT SETS THIS
MOTION FOR AN EXPEDITED HEARING, THEN ONLY ATTENDANCE AT THE
HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS**

TO THE HONORABLE CRAIG GARGOTTA, CHIEF U.S. BANKRUPTCY JUDGE:

NOW COMES Sharon Brimhall, Executrix of The Estate of Harry Sims, a creditor and party in interest and files this Motion to Appoint Chapter 11 Trustee.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and to rule on this motion pursuant to 11 U.S.C. §§ 303(g) and 701. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

II. BACKGROUND FACTS

2. On June 1, 2022, Christopher Pettit (“Pettit”) filed his voluntary petition initiating the above styled and numbered chapter 11 case (the “Bankruptcy Case”). On the same date a

voluntary petition under chapter 11 was filed by Chris Pettit & Associates, P.C., (“CP&A”) a law firm owned by Pettit.

3. Pettit was licensed to practice law in the state of Texas and engaged in the practice of law for many years at his law firm CP&A.

4. Sally Brimhall (“Brimhall”) was appointed as the Independent Executrix of her deceased husband’s probate estate on July 20, 2014. Brimhall retained Pettit and his law firm, CP&A to probate her husband’s will. Pettit and CP&A falsely represented that the assets of the probate estate would need to remain with Brimhall’s lawyers pending the wind up of the estate.

5. In that capacity, Pettit and CP&A received more than \$2.79 million in funds belonging to the Sims estate. Despite repeated demands to turnover the estate funds, Pettit and CP&A have failed and refused to comply. On information and belief, Pettit and CP&A have absconded with estate assets which were deposited with them in a fiduciary capacity.

6. On information and belief, Pettit and/or CP&A received significant sums of money from a number of clients in the form of escrow deposits, probate estate funds, trust funds, 1031 exchange accounts, investment accounts and similar types of deposits received in a fiduciary capacity.

7. According to Pettit’s Statements of Financial Affairs filed in this Bankruptcy Case, Pettit and CP&A were defendants in at least 12 separate lawsuits in which the plaintiff’s are alleging that Pettit and CP&A have stolen funds entrusted to them. On information and belief, several plaintiffs have received agreed judgments incorporating findings of fraud and breach of fiduciary duty.

8. Pettit’s sworn Statements of Financial Affairs further attest to 52 individuals or entities for whom he, in concert with CP&A, held or controlled assets, including any property he

borrowed or held in trust. With respect to each entry, Pettit discloses that he held the property “In various capacities as attorney, trustee or otherwise there were various accounts, trust or other devices that were held or "controlled" - the account balances are uncertain.” Not only was Pettit unable to determine the balances held in those “accounts” but is unable or unwilling to reveal the location of those accounts.

III. RELIEF REQUESTED

9. Section 1104(a) of Title 11 of the U.S. Code (“Bankruptcy Code” provides that)

(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of a trustee—

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

10. Both Pettit and CP&A have engaged in a pattern of fraud, dishonesty, incompetence, or gross mismanagement of their affairs before commencement of the case. Cause exists to appoint a trustee. Moreover, appointment of a trustee is in the best interests of the creditors of the estate in order to prevent further harm to those creditors.

11. Movant seeks relief on an expedited basis. The Debtors do not oppose the relief requested in this motion.

V. PRAYER

WHEREFORE PREMISES CONSIDERED, Sharon Brimhall, Executrix of The Estate of Harry Sims respectfully requests that the Court order appoint a trustee as described and outlined in 11 U.S.C. §§ 1104 and grant her all relief she may justly be entitled.

Respectfully submitted June 3, 2022.

THE LAW OFFICES OF RAY BATTAGLIA,
PLLC.

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By: /s/Raymond W. Battaglia

Raymond W. Battaglia
Texas Bar No. 01918055

**ATTORNEYS FOR SHARON BRIMHALL,
EXECUTRIX OF THE ESTATE OF HARRY
SIMS**

CERTIFICATE OF SERVICE

On June 3, 2022, a true and correct copy of the foregoing document was filed with the Court and served electronically upon those parties registered to receive electronic notice via the Court's CM/ECF system, as set forth below. I further certify that it has been transmitted by first class mail to the parties on the attached service list

/s/ Raymond W. Battaglia

Raymond W. Battaglia

Chris Pettit & Associates, P.C. 11902 Rustic Lane San Antonio, TX 78230	United States Attorney 601 N.W. Loop 410, Ste. 600 San Antonio, TX 78216	United States Trustee - SA12 US Trustee's Office 615 E Houston, Suite 533 PO Box 1539 San Antonio, TX 78295-1539 Frank & Emma Persyn Family Ltd. c/o Leslie Ann Persyn 7607 UTSA Drive San Antonio, TX 78249
Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19114	Texas Comptroller of Public Accounts P.O. Box 13528 Austin, TX 78711-35828	
Sallie Mae Waclawczyk 771 Linda Lou Dr. San Antonio, TX 78223	Bruce H. Bengel 5502 Pioneer Creek San Antonio, TX 78245	Eddie & Lou Ann Dreamkowski 427 Scotty San Antonio, TX 78227
Kenneth W. Paris 11495 FM 443 Shiner, TX 77984-6337	George Pilgrim Pilgrim Mortgage LLC 1270 N. Loop 1604 East Suite 1101 San Antonio, TX 78232	James & Carol Armstrong 6723 Lake Cliff Street San Antonio, TX 78244
Mark & Robin Verstuyft 13235 Watson Road Von Ormy, TX 78073	Michael Halay 15300 CR 261C Nathrop, CO 81236	Frank G. Persyn, Jr. 6106 Ridge Arbor San Antonio, TX 78250
Michael Kotzur 4218 Treehouse Dr. San Antonio, TX 78222	Henry J. Persyn 8788 Reed Road San Antonio, TX 78251	Richard & Rhonda Mylnar 796 S. Highway 16 S. Jourdanton, TX 78026
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